

## **Senate Bill No. 1986**

### **CHAPTER 915**

An act to amend Sections 44501, 44502, 44507, 44520, 44525, 44526, 44537.5, 44548, 44559, 44559.1, and 44559.2 of, and to add Sections 44504.1 and 44525.7 to, the Health and Safety Code, relating to pollution.

[Approved by Governor September 29, 2000. Filed  
with Secretary of State September 29, 2000.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

**SB 1986, Costa. Pollution.**

(1) Existing law contains legislative findings regarding the necessity that the state, in cooperation with the federal government, use all practical means and measures to control, remediate, and eliminate pollution hazards to the environment, including developing new and alternative processes and facilities that provide for the disposal of waste products, as provided.

Existing law authorizes the California Pollution Control Financing Authority to finance various pollution control projects to control and eliminate pollution hazards to the environment and defines the term "pollution" for purposes of these financing provisions.

This bill would revise the definition of the term "pollution" for purposes of these provisions, to include the presence of asbestos or lead paint, and would define the term "brownfield site" for purposes of those provisions. The bill would authorize the authority to provide a loan to any city, county, school district, redevelopment agency, financial institution, any for-profit or not-for-profit organization, or any participating party, to assist in financing the costs of performing or obtaining site assessments, remedial action plans and reports, and technical assistance, or the cleanup, remediation, or development of brownfield sites, as specified.

The bill also would require the authority, commencing in 2002, and annually thereafter, to submit a report to the Legislature regarding the program.

(2) Existing law establishes the Capital Access Loan Program, which is administered by the authority, and defines the term "qualified business," for purposes of that program, as a small business concern that meets specified criteria. The authority is required to include specified terms in any contract that the authority enters into with a financial institution participating in the program, including that the business receiving a loan has operations that affect the environment, as specified.

This bill would revise the definition of the term “qualified business” to specify that a business concern that meets the criteria is a qualified business regardless of whether the small business concern has operations that affect the environment and would delete the requirement that the authority’s contract with a financial institution include such a condition.

(3) This bill would incorporate additional changes in Sections 44501, 44502, 44520, and 44526 of the Health and Safety Code proposed by AB 779, to become operative only if both bills are enacted and become operative on or before January 1, 2001, and this bill is enacted last.

(4) This bill would incorporate additional changes to Section 44559.1 of the Health and Safety Code, proposed by AB 2805, to become operative only if both bills are enacted and become operative on or before January 1, 2001, and this bill is enacted last.

*The people of the State of California do enact as follows:*

SECTION 1. Section 44501 of the Health and Safety Code is amended to read:

44501. (a) The Legislature hereby finds and declares that it is necessary and essential that the state, in cooperation with the federal government, use all practical means and measures to control, remediate, and eliminate pollution hazards to the environment. The Legislature further finds and determines that industry within this state utilizes processes and facilities that have significant environmental impact. These processes and facilities shall be modified and supplemented to meet the quality standards established and to be established for the control and remediation of environmental pollution. Industry needs and requires new methods to finance the capital outlays required for the devices, equipment, and facilities utilized in pollution control if they are to rapidly comply with the quality standards established by the state and federal governments, and if they are to rapidly remediate contaminated properties so that those properties can be reused for economically beneficial purposes.

(b) The Legislature also finds and declares that the disposal of waste products by current methods as incineration and landfill pollute the environment by degrading air and water quality. The Legislature further finds that in order to reduce the environmental pollution that currently occurs in connection with the disposal of waste products, there is a need to develop new and alternative processes and facilities that provide for the disposal of those waste products in ways that prevent or reduce environmental degradation. The Legislature also finds that those new and alternative processes and facilities include those that recover resources and energy from waste products. The Legislature further finds and declares that in



order to prevent further environmental degradation resulting from contamination caused by the release of waste products and hazardous materials, there is a need to encourage the remediation of that contamination of properties with the potential for economically beneficial reuse.

(c) The alternate method of financing provided in this division is in the public interest and serves a public purpose and will promote the health, welfare, and safety of the citizens of the State of California.

(d) (1) The Legislature also finds and declares that real property contaminated with hazardous substances is a continuing blight on communities. Estimates suggest there are between 67,000 and 119,000 contaminated sites, commonly referred to as “brownfields,” throughout the state. Located in existing communities, many of these sites are abandoned, idle, or underutilized due to a combination of factors including legal liability concerns, regulatory issues, and the costs of pollution cleanup. Additionally, many of the undeveloped brownfields in the state are located within communities with depressed land values and pressing economic need, communities often characterized by a lack of capital investment. The remediation and development of brownfields is an important component of revitalizing existing communities and supporting sustainable growth patterns. While remediation and development activities should focus on brownfield sites that, although contaminated, have the potential for economically beneficial reuse, there currently exist few, if any, sources for financing the assessment, planning, and reporting activities that are the necessary first steps toward determining whether a site has the potential for economically beneficial reuse.

(2) The Legislature finds and declares that the California Pollution Control Financing Authority should work in conjunction with public and private sector entities, including, but not limited to, cities, counties, school districts, redevelopment agencies, and financial institutions, to assist in financing the costs of performing or obtaining site assessments, remedial action plans technical assistance, and, reports, and where it is determined that a site has the potential for economically beneficial reuse, the cleanup, remediation, or development of brownfield sites. The loan program provided by this division is in the public interest, serves a public purpose, and will promote the health, welfare, and safety of the citizens of the State of California.

SEC. 1.5. Section 44501 of the Health and Safety Code is amended to read:

44501. (a) The Legislature hereby finds and declares that it is necessary and essential that the state, in cooperation with the federal government, use all practical means and measures to control, remediate, and eliminate pollution hazards to the environment. The Legislature further finds and determines that industry within this state utilizes processes and facilities that have significant



environmental impact. These processes and facilities shall be modified and supplemented to meet the quality standards established and to be established for the control and remediation of environmental pollution. Industry needs and requires new methods to finance the capital outlays required for the devices, equipment, and facilities utilized in pollution control if they are to rapidly comply with the quality standards established by the state and federal governments, and if they are to rapidly remediate contaminated properties so that those properties can be reused for economically beneficial purposes.

(b) The Legislature also finds and declares that the disposal of waste products by such current methods as incineration and landfill pollute the environment by degrading air and water quality. The Legislature further finds that in order to reduce the environmental pollution that currently occurs in connection with the disposal of waste products, there is a need to develop new and alternative processes and facilities that provide for the disposal of those waste products in ways that prevent or reduce environmental degradation. The Legislature also finds that those new and alternative processes and facilities include those that recover resources and energy from waste products. The Legislature further finds and declares that in order to prevent further environmental degradation resulting from contamination caused by the release of waste products and hazardous materials, there is a need to encourage the remediation of that contamination of properties with the potential for economically beneficial reuse.

(c) The alternate method of financing provided in this division is in the public interest and serves a public purpose and will promote the health, welfare, and safety of the citizens of the State of California.

(d) The Legislature also finds and declares that California is expected to undergo tremendous population growth by the addition of an estimated five million new jobs, 12 million new residents, and over four million new households over the next 20 years. This constitutes more rapid growth than California experienced during the 1950's, 1960's, and 1970's, combined. The Legislature also finds that as a result of this unprecedented growth, the long-term environmental quality of the state depends, in part, on altering current growth patterns by adopting policies and programs that promote new forms of sustainable development and that will help reduce pollution and the degradation of the environment. The Legislature also finds that a key element of sustainable development is infill development and the revitalization of existing communities. Sustainable development will result in the remediation of brownfields, reduce traffic and auto pollution, and help preserve open spaces. The Legislature also finds that many communities in California do not have the resources or expertise to identify and compete for state, federal, or private assistance in order to develop



and implement environmentally sensitive growth policies and programs for economically struggling neighborhoods. The Legislature further finds and declares that assisting economically distressed counties and cities to develop and implement sustainable and environmentally sensitive growth policies and programs that increase the utilization of unproductive properties within existing communities will help reduce environmental hazards created by brownfields and traffic congestion, while aiding in the revitalization of economically struggling neighborhoods and the preservation of open space at the urban edges. The grant and loan program provided in this division is in the public interest, serves a public purpose, and will promote the health, welfare, and safety of the citizens of the State of California.

(e) (1) The Legislature also finds and declares that real property contaminated with hazardous substances is a continuing blight on communities. Estimates suggest there are between 67,000 and 119,000 contaminated sites, commonly referred to as “brownfields,” throughout the state. Located in existing communities, many of these sites are abandoned, idle, or underutilized due to a combination of factors, including legal liability concerns, regulatory issues, and the costs of pollution cleanup. Additionally, many of the undeveloped brownfields in the state are located within communities with depressed land values and pressing economic need, communities often characterized by a lack of capital investment. The remediation and development of brownfields is an important component of revitalizing existing communities and supporting sustainable growth patterns. While remediation and development activities should focus on brownfield sites that, although contaminated, have the potential for economically beneficial reuse, there currently exist few, if any, sources for financing the assessment, planning, and reporting activities that are the necessary first steps toward determining whether a site has the potential for economically beneficial reuse.

(2) The Legislature finds and declares that the California Pollution Control Financing Authority should work in conjunction with public and private sector entities, including, but not limited to, cities, counties, school districts, redevelopment agencies, and financial institutions, to assist in financing, through loans, the cost of performing or obtaining site assessments, remedial action plans, technical assistance, and reports, and where it is determined that a site has the potential for economically beneficial reuse, the cleanup, remediation, or development of brownfield sites. The loan program provided by this division is in the public interest, serves a public purpose, and will promote the health, welfare, and safety of the citizens of the State of California.

SEC. 2. Section 44502 of the Health and Safety Code is amended to read:

44502. It is the purpose of this division to carry out and make effective the findings of the Legislature and to that end to do both of the following, to the mutual benefit of the people of the state and to protect their health and welfare:

(1) To provide industry within the state, irrespective of company size, with an alternative method of financing in providing, enlarging, and establishing pollution control facilities that are needed to accomplish the purposes of this division.

(2) To assist with the financing of the costs of assessment, remedial planning and reporting, technical assistance, and the cleanup, remediation, or development of brownfield sites, or other similar or related costs.

SEC. 2.5. Section 44502 of the Health and Safety Code is amended to read:

44502. It is the purpose of this division to carry out and make effective the findings of the Legislature and to that end to do all of the following, to the mutual benefit of the people of the state and to protect their health and welfare:

(a) To provide industry within the state, irrespective of company size, with an alternative method of financing in providing, enlarging, and establishing pollution control facilities that are needed to accomplish the purposes of this division.

(b) To assist economically distressed counties and cities to develop and implement growth policies and programs that reduce pollution hazards and the degradation of the environment or promote infill development.

(c) To assist with the financing of the costs of assessment, remedial planning and reporting, technical assistance, and the cleanup, remediation, or development of brownfield sites, or other similar or related costs.

SEC. 3. Section 44504.1 is added to the Health and Safety Code, to read:

44504.1. “Brownfield site” means a real estate parcel or improvements located on the parcel, or both that parcel and the improvements, which is abandoned, idled, or underused, due to real or perceived environmental contamination, including, but not limited to, soil or groundwater contamination, the presence of underground storage tanks, or the presence of asbestos or lead paint on the parcel or in the improvements located on the parcel, which after assessment and planning, is determined to have a reasonable potential for economically beneficial reuse.

SEC. 4. Section 44507 of the Health and Safety Code is amended to read:

44507. “Pollution” means an alteration of the quality of the environment of the state and shall be determined by the various standards prescribed from time to time by this state, the federal government, or any agency, department, or political subdivision of



this state or the federal government, and may include, but is not limited to, earth, air, or water pollution, pollution caused by solid or hazardous waste disposal, thermal pollution, radiation contamination, the release of hazardous materials, or noise pollution. Pollution also includes, but is not limited to, the contamination of soil or groundwater resulting from the release of hazardous materials, as defined in Section 25260, or the presence of asbestos or lead paint, at sites with a reasonable potential for economically beneficial reuse.

SEC. 5. Section 44520 of the Health and Safety Code is amended to read:

44520. (a) The authority shall, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, adopt all necessary rules and regulations to carry out its powers and duties under this division. The authority may call upon any board or department of the state government for aid and assistance in the preparation of plans and specifications and in the development of technology necessary to effectively control pollution.

(b) Notwithstanding subdivision (a), the authority, or any other agency implementing a small business or brownfield site financing assistance program pursuant to an interagency agreement with the authority, may adopt regulations relating to small business or brownfield site financing as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For purposes of that Chapter 3.5, including Section 11349.6 of the Government Code, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding subdivision (e) of Section 11346.1 of the Government Code, the regulations shall be repealed 180 days after their effective date, unless the adopting authority or agency complies with that Chapter 3.5, as provided in subdivision (e) of Section 11346.1 of the Government Code.

SEC. 5.5. Section 44520 of the Health and Safety Code is amended to read:

44520. (a) The authority shall, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, adopt all necessary rules and regulations to carry out its powers and duties under this division. The authority may call upon any board or department of the state government for aid and assistance in the preparation of plans and specifications and in the development of technology necessary to effectively control pollution.

(b) Notwithstanding subdivision (a), the authority, or any other agency implementing a small business or brownfield site financing assistance program pursuant to an interagency agreement with the





authority, may adopt regulations relating to small business or brownfield site financing as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For purposes of that Chapter 3.5, including Section 11349.6 of the Government Code, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding subdivision (e) of Section 11346.1 of the Government Code, the regulations shall be repealed 180 days after their effective date, unless the adopting authority or agency complies with that Chapter 3.5, as provided in subdivision (e) of Section 11346.1 of the Government Code.

(c) Notwithstanding subdivision (a), the authority, or any other agency implementing a loan program pursuant to an interagency agreement with the authority, may adopt regulations relating to the loans authorized under subdivision (g) of Section 44526 as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For purposes of that Chapter 3.5, including Section 11349.6 of the Government Code, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding subdivision (e) of Section 11346.1 of the Government Code, the regulations shall be repealed 180 days after their effective date, unless the adopting authority or agency complies with that Chapter 3.5, as provided in subdivision (e) of Section 11346.1 of the Government Code.

SEC. 6. Section 44525 of the Health and Safety Code is amended to read:

44525. (a) The authority may charge reasonable application and project fees to reimburse the authority for costs incurred in administering applications for financing pursuant to this division and to support authority programs, including, but not limited to, the Capital Access Loan Program authorized by Article 8 (commencing with Section 44559), and loans, as authorized by subdivision (g) of Section 44526.

(b) This section shall become operative only if Assembly Bill 779 of the 1999–2000 Regular Session is not enacted.

SEC. 6.6. Section 44525 of the Health and Safety Code is amended to read:

44525. (a) The authority may charge reasonable application and project fees to reimburse the authority for costs incurred in administering applications for financing pursuant to this division and to support authority programs, including, but not limited to, the Capital Access Loan Program authorized by Article 8 (commencing





with Section 44559, and loans, as authorized by subdivision (h) of Section 44526.

(b) This section shall become operative only if Assembly Bill 779 of the 1999–2000 Regular Session is enacted.

SEC. 7. Section 44525.7 is added to the Health and Safety Code, to read:

44525.7. (a) Commencing in 2002, and annually thereafter, the authority shall submit a report to the Legislature regarding the loan program described in subdivision (g) of Section 44526.

(b) This section shall not become operative if Assembly Bill 779 of the 1999–2000 Regular Session is enacted.

SEC. 7.5. Section 44525.7 is added to the Health and Safety Code, to read:

44525.7. (a) Commencing in 2002, and annually thereafter, the authority shall submit a report to the Legislature regarding the loan program described in subdivision (h) of Section 44526.

(b) This section shall become operative only if Assembly Bill 779 of the 1999–2000 Regular Session is enacted.

SEC. 8. Section 44526 of the Health and Safety Code is amended to read:

44526. The authority is authorized:

(a) To determine the location and character of any project to be financed under the provisions of this division, to lend financial assistance to any participating party, to construct, reconstruct, renovate, replace, lease, as lessor or lessee, and regulate the same, and to enter into contracts for the sale of any pollution control facilities, including installment sales or sales under conditional sales contracts, and to make loans to participating parties to lend financial assistance in the acquisition, construction, or installation of a project.

(b) To issue bonds, notes, bond anticipation notes, and other obligations of the authority for any of its corporate purposes, and to fund or refund the same, all as provided in this division.

(c) To fix fees and charges for pollution control facilities, and to revise from time to time those fees and charges, and to collect rates, rents, fees, and charges for the use of and for any facilities or services furnished, or to be furnished, by a project or any part thereof and to contract with any person, partnership, association, corporation, or public agency with respect thereto, and to fix the terms and conditions upon which any pollution control facilities may be sold or disposed of, whether upon installment sales contracts or otherwise.

(d) To employ and fix the compensation of bond counsel, financial consultants, and advisers as may be necessary in its judgment in connection with the issuance and sale of any bonds, notes, bond anticipation notes, or other obligations of the authority; to contract for engineering, architectural, accounting, or other services of appropriate agencies as may be necessary in the judgment of the authority for the successful development of any project; and to pay

the reasonable costs of consulting engineers, architects, accountants, and construction experts employed by any participating party if, in the judgment of the authority, those services are necessary to the successful development of any project, and those services are not obtainable from any public agency.

(e) To receive and accept loans, contributions, or grants, in money, property, labor, or other things of value, for, or in aid of, the authority in carrying out the purposes of this division, from any source including, but not limited to, the federal government, the state, or any agency of the state, any local government or agency thereof, or any nonprofit or for-profit private entity or individual.

(f) To apply for, and accept, subventions, grants, loans, advances, and contributions from any source, of money, property, labor, or other things of value. The sources may include, but are not limited to, bond proceeds, dedicated taxes, state appropriations, federal appropriations, federal grant and loan funds, public and private sector retirement system funds, and proceeds of loans from the Pooled Money Investment Account.

(g) (1) To provide a loan directly, or indirectly through one or more public or private sector intermediaries, to any city, county, school district, redevelopment agency, financial institution, as defined in subdivision (d) of Section 44559.1, a for-profit or not-for-profit organization, or participating party, as defined in Section 44506, to assist in financing, among other things, the costs of performing or obtaining brownfield site assessments, remedial action plans and reports, technical assistance, the cleanup, remediation, or development of brownfield sites, or any other similar or related costs, subject to all applicable federal, state, and local laws, procedures, and regulations.

(2) The authority shall establish standards and criteria to ensure that a recipient of direct or indirect financing for cleanup or remediation pursuant to this subdivision has the necessary financial resources and expertise to successfully and appropriately complete the cleanup or remediation of the property.

(3) The authority may pay all, or a portion, of the associated program development and implementation costs of any public or private sector intermediaries through which a loan is made. A loan authorized by this subdivision is subject to both of the following:

(A) A loan may be used in connection with a brownfield site prior to a determination of whether the site has a reasonable potential for economically beneficial reuse.

(B) A loan may be made upon the terms determined by the authority and may provide for any rate of interest or no interest.

(4) The authority shall fund a loan made pursuant to this subdivision from any funds available to it, from any funds set aside for the authority's administrative expenses, or from any small business

assistance fund established for these purposes pursuant to Section 44548.

(5) The authority may waive repayment of all, or a portion, of any loan made pursuant to this subdivision upon conditions to be determined by the authority, and the amount so waived shall be deemed a grant to the recipient.

(h) To do all things generally necessary or convenient to carry out the purposes of this division.

SEC. 8.5. Section 44526 of the Health and Safety Code is amended to read:

44526. The authority is authorized:

(a) To determine the location and character of any project to be financed under the provisions of this division, to lend financial assistance to any participating party, to construct, reconstruct, renovate, replace, lease, as lessor or lessee, and regulate the same, and to enter into contracts for the sale of any pollution control facilities, including installment sales or sales under conditional sales contracts, and to make loans to participating parties to lend financial assistance in the acquisition, construction, or installation of a project.

(b) To issue bonds, notes, bond anticipation notes, and other obligations of the authority for any of its corporate purposes, and to fund or refund the same, all as provided in this division.

(c) To fix fees and charges for pollution control facilities, and to revise from time to time those fees and charges, and to collect rates, rents, fees, and charges for the use of and for any facilities or services furnished, or to be furnished, by a project or any part thereof and to contract with any person, partnership, association, corporation, or public agency with respect thereto, and to fix the terms and conditions upon which any pollution control facilities may be sold or disposed of, whether upon installment sales contracts or otherwise.

(d) To employ and fix the compensation of bond counsel, financial consultants, and advisers as may be necessary in its judgment in connection with the issuance and sale of any bonds, notes, bond anticipation notes, or other obligations of the authority; to contract for engineering, architectural, accounting, or other services of appropriate agencies as may be necessary in the judgment of the authority for the successful development of any project; and to pay the reasonable costs of consulting engineers, architects, accountants, and construction experts employed by any participating party if, in the judgment of the authority, those services are necessary to the successful development of any project, and those services are not obtainable from any public agency.

(e) To receive and accept loans, contributions, or grants, in money, property, labor, or other things of value, for, or in aid of, the authority in carrying out the purposes of this division, from any source including, but not limited to, the federal government, the

state, or any agency of the state, any local government or agency thereof, or any nonprofit or for-profit private entity or individual.

(f) To apply for, and accept, subventions, grants, loans, advances, and contributions from any source, of money, property, labor, or other things of value. The sources may include, but are not limited to, bond proceeds, dedicated taxes, state appropriations, federal appropriations, federal grant and loan funds, public and private sector retirement system funds, and proceeds of loans from the Pooled Money Investment Account.

(g) To provide grants and loans to any city or county deemed eligible by the authority. The grants and loans shall be used to assist California neighborhoods suffering from high poverty or unemployment levels, or from low-income levels, to assist cities and counties in developing and implementing growth policies and programs that reduce pollution hazards and the degradation of the environment, or in promoting infill development to revitalize these communities. The grants and loans may be used to employ the technical expertise necessary to identify, assess, and complete applications for state, federal, and private economic assistance programs that develop and implement sustainable development and sound environmental policies and programs. Priority shall be given to applicants lacking the resources to identify, assess, and complete applications for economic assistance, and for those lacking the resources to develop and implement sustainable growth and other sound environmental policies and programs. The authority shall fund these grants and loans from any funds available to the authority or set aside for the authority's administrative expenses. The authority may not award more than two million five hundred thousand dollars (\$2,500,000) in grants and loans pursuant to this subdivision. This subdivision shall remain operative only until January 1, 2007, and as of that date is no longer operative, unless a later enacted statute that is enacted before January 1, 2007, deletes or extends that date.

(h) (1) To provide a loan directly, or indirectly through one or more public or private sector intermediaries, to any city, county, school district, redevelopment agency, financial institution, as defined in subdivision (d) of Section 44559.1, for-profit or not-for-profit organization, or participating party, as defined in Section 44506, to assist in financing, among other things, the costs of performing or obtaining brownfield site assessments, remedial action plans and reports, technical assistance, the cleanup, remediation, or development of brownfield sites, or any other similar or related costs, subject to all applicable federal, state, and local laws, procedures, and regulations.

(2) The authority shall establish standards and criteria to ensure that a recipient of direct or indirect financing for cleanup or remediation pursuant to this subdivision has the necessary financial

resources and expertise to successfully and appropriately complete the cleanup or remediation of the property.

(3) The authority may pay all, or a portion, of the associated program development and implementation costs of any public or private sector intermediaries through which a loan is made. A loan authorized by this subdivision is subject to both of the following:

(A) A loan may be used in connection with a brownfield site prior to a determination of whether the site has a reasonable potential for economically beneficial reuse.

(B) A loan may be made upon the terms determined by the authority and may provide for any rate of interest or no interest.

(4) The authority shall fund a loan made pursuant to this subdivision from any funds available to it, from any funds set aside for the authority's administrative expenses, or from any small business assistance fund established for these purposes pursuant to Section 44548.

(5) The authority may waive repayment of all, or a portion, of any loan made pursuant to this subdivision upon conditions to be determined by the authority, and the amount so waived shall be deemed a grant to the recipient.

(i) To do all things generally necessary or convenient to carry out the purposes of this division.

SEC. 9. Section 44537.5 of the Health and Safety Code is amended to read:

44537.5. The authority shall provide the maximum opportunity for the use of the authority's financing by individuals, businesses engaged in agricultural operations, and small businesses or corporations by providing information, assistance, and coordination to facilitate financing for small projects and other financing that benefits the environment and the economy of the state, including financing for projects for the disposal of agricultural wastes, with special attention to the needs of businesses that do not meet standard commercial lending requirements but provide public benefits, such as job creation or retention and the redevelopment for economically beneficial uses of contaminated properties. The authority shall assist with the financing of the costs of, among other things, assessment, remedial planning and reporting, technical assistance, and cleanup, remediation, or development of brownfield sites, and any other similar or related costs, by providing the loans authorized pursuant to subdivision (g) of Section 44526. The authority shall provide the maximum opportunity to provide loan funding pursuant to subdivision (g) of Section 44526 to assist brownfield site financing assistance programs where the sites are located in economically struggling communities suffering from a low level of income or a high level of poverty or unemployment.

SEC. 10. Section 44548 of the Health and Safety Code is amended to read:

44548. (a) (1) Subject to any prior contractual obligations to any of its bondholders, the authority may establish one or more small business assistance funds in order to do any of the following:

(A) Assist small businesses to achieve financing of pollution control facilities.

(B) Assist with the financing of the costs of, among other things, assessment, remedial planning and reporting, technical assistance, cleanup, remediation, and development of brownfield sites, and with other similar or related costs, by providing loans pursuant to subdivision (g) of Section 44526.

(C) Fund a capital access program for small businesses pursuant to Article 8 (commencing with Section 44559).

(2) For the purpose of establishing and maintaining small business assistance funds as it determines to be necessary or desirable to secure its bonds or any issuance thereof or for other authorized purposes, the authority, pursuant to its contracts with participating parties, may levy fees or other charges on, or require deposits from, participating parties receiving financing for a project under this division. The total amount of these fees, charges, and deposits with respect to a single issue of bonds shall not exceed 3 percent of the principal amount of that issue of bonds.

(3) Prior to levying any fees or charges or requiring deposits, the authority shall adopt regulations for the operation of the small business assistance funds, the amounts and any payment schedule for the fees, charges, or deposits, eligibility standards for small businesses desiring to use or benefit from the small business assistance funds, and any other matters the authority determines to be necessary for the establishment and maintenance of small business assistance funds. The regulations may provide for differential fees from participating parties based upon the size of a project financed by the authority or other factors determined to be relevant by the authority, and the regulations may restrict any benefits to those eligible small businesses specified in the regulations.

(4) The authority may transfer any funds available to it or set aside for its administrative expenses to any small business assistance fund established under this section.

(b) The forms of financial assistance that the authority may provide under this section include, but are not limited to, payments to reduce, but not eliminate, the interest rate on loans; payments of part or all of the cost of acquiring letters of credit, insurance, guarantees, or other forms of credit support; and payment of part or all of the authority's expenses in issuing revenue bonds or providing other assistance. The authority may also pledge any small business assistance fund, on an individual or pooled basis, to repay, directly or indirectly, the principal of, or interest or premium on, any issue of bonds of the authority or any loan made or acquired pursuant to this section. The authority may also use moneys in a small business

assistance fund to assist in the financing of the costs of assessment, remedial planning and reporting, technical assistance, cleanup, remediation or development of brownfield sites, and of other similar or related costs, by providing loans, pursuant to, and under the terms permitted by, subdivision (g) of Section 44526. In addition to other purposes set forth in this section, the authority may use moneys in a small business assistance fund to make or acquire loans or guarantee commercial loans to participating parties eligible for assistance from those funds. Any moneys repaid or returned to the authority in connection with or as a result of any loan or financial assistance made pursuant to this section shall be deposited in the small business assistance fund from which the loan or assistance was originally provided. The authority may contract with qualified financial institutions, including, but not limited to, banks, investment and mortgage bankers, insurance companies, sureties, and guarantors, to provide any necessary assistance in the granting of credit for these purposes.

(c) Each small business assistance fund established pursuant to this section shall be deposited in a special account that the Controller shall create. Notwithstanding any other provision of law, and subject to any requirements of federal tax law or regulations relative to maintaining the tax-exempt status of the obligations of the authority, all interest or other gains earned by investment or deposit of money in the special account pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code or pursuant to any other provision of law shall be credited to, and deposited in, the account.

(d) In carrying out this section, the authority shall participate with the air pollution control districts and air quality management districts in providing financial assistance in its lending programs.

SEC. 11. Section 44559 of the Health and Safety Code is amended to read:

44559. (a) The Legislature finds and declares that small businesses are responsible for a significant amount of environmental emissions in the state, but are less able than larger businesses to afford the investment in new equipment or process modifications needed to comply with environmental regulations, with regard to controlling emissions, preventing the creation of pollutants, contaminants, or waste products, and remediating contamination of properties with a reasonable potential for economically beneficial reuse. Additionally, small businesses faced with financial pressures will be likely to reduce expenditures to achieve environmental compliance. Better access to capital will allow small businesses to more easily comply with environmental mandates, and to remediate contamination of properties with a reasonable potential of economically beneficial reuse, and to succeed economically, generating additional revenue





to state and local governments that can be used for environmental improvements, all to the benefit of all the residents of the state.

(b) The Legislature also finds and declares that it is in the best interest of the state to expand the Capital Access Loan Program for small business regardless of whether the operations of the small business affect the environment, and to permit business loans to be included in the program for small businesses whose operations do not, necessarily, affect the environment. Small businesses have difficulty gaining access to capital for startup and expansion purposes. Small businesses owned by minorities and women have special capital access difficulties. In addition, small businesses operating in areas affected by military base closures are disadvantaged by limited access to capital. The Legislature finds that improving access to capital for these small businesses will spur investment, create jobs, expand economic opportunities, assist in the recovery of communities affected by defense and aerospace losses, assist in the recovery of neighborhoods and communities affected by contaminated properties that are not being used for economically beneficial purposes but which could be so used if the contamination was remediated, and help sustain and strengthen economic recovery in California.

SEC. 12. Section 44559.1 of the Health and Safety Code is amended to read:

44559.1. As used in this article, unless the context requires otherwise:

(a) “Authority” means the California Pollution Control Financing Authority.

(b) “California Capital Access Fund” means a fund created within the authority to be used for purposes of the program.

(c) “Executive director” means the Executive Director of the California Pollution Control Financing Authority.

(d) “Financial institution” means a federal or state-chartered bank, savings association, credit union, not-for-profit community development financial institution certified under Part 1805 (commencing with Section 1805.100) of Chapter XVIII of Title 12 of the Code of Federal Regulations, or a consortium of these entities. A consortium of those entities may include a nonfinancial corporation, if the percentage of capitalization by all nonfinancial corporations in the consortium does not exceed 49 percent.

(e) “Loss reserve account” means an account in the State Treasury or any financial institution that is established and maintained by the authority for the benefit of a financial institution participating in the Capital Access Loan Program established pursuant to this article for the purposes of the following:

(1) Depositing all required fees paid by the participating financial institution and the qualified business.



(2) Depositing contributions made by the state and, if applicable, the federal government or other sources.

(3) Covering losses on enrolled qualified loans sustained by the participating financial institution by disbursing funds accumulated in the loss reserve account.

(f) “Participating financial institution” means a financial institution that has been approved by the authority to enroll qualified loans in the program and has agreed to all terms and conditions set forth in this article and as may be required by any applicable federal law providing matching funding.

(g) “Passive real estate ownership” means ownership of real estate for the purpose of deriving income from speculation, trade, or rental, but does not include any of the following:

(1) The ownership of that portion of real estate being used or intended to be used for the operation of the business of the owner of the real estate.

(2) The ownership of real estate for the purpose of construction or renovation, until the completion of the construction or renovation phase.

(h) “Program” means the Capital Access Loan Program created pursuant to this article.

(i) “Qualified business” means a small business concern that meets both of the following criteria, regardless of whether the small business concern has operations that affect the environment:

(1) It is a corporation, partnership, cooperative, or other entity, whether that entity is a nonprofit entity or an entity established for profit, that is authorized to conduct business in the state.

(2) It has its primary business location within the boundaries of the state.

(j) (1) “Qualified loan” means a loan or a portion of a loan made by a participating financial institution to a qualified business for any business activity that has its primary economic effect in California. A qualified loan may be made in the form of a line of credit, in which case the participating financial institution shall specify the amount of the line of credit to be covered under the program, which may be equal to the maximum commitment under the line of credit or an amount that is less than that maximum commitment. A qualified loan made under the program may be made with the interest rates, fees, and other terms and conditions agreed upon by the participating financial institution and the borrower.

(2) “Qualified loan” does not include any of the following:

(A) A loan for the construction or purchase of residential housing.

(B) A loan to finance passive real estate ownership.

(C) A loan for the refinancing of an existing loan when and to the extent that the outstanding balance is not increased.



(D) A loan, the proceeds of which will be used in any manner that could cause the interest on any bonds previously issued by the authority to become subject to federal income tax.

(k) “Severely affected community” means any area classified as an enterprise zone pursuant to the Enterprise Zone Act (Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code), any area, as designated by the executive director, contiguous to the boundaries of a military base designated for closure pursuant to Section 2687 of Title 10 of the United States Code, as amended, and any other comparable economically distressed geographic area so designated by the executive director from time to time.

(l) “Small Business Assistance Fund” means a fund created within the authority pursuant to Section 44548.

(m) “Small business concern” has the same meaning as in Section 632 of Title 15 of the United States Code, or as otherwise provided in regulations of the authority.

SEC. 12.5. Section 44559.1 of the Health and Safety Code is amended to read:

44559.1. As used in this article, unless the context requires otherwise:

(a) “Authority” means the California Pollution Control Financing Authority.

(b) “California Capital Access Fund” means a fund created within the authority to be used for purposes of the program.

(c) “Executive director” means the Executive Director of the California Pollution Control Financing Authority.

(d) “Financial institution” means a federal- or state-chartered bank, savings association, credit union, not-for-profit community development financial institution certified under Part 1805 (commencing with Section 1805.100) of Chapter XVIII of Title 12 of the Code of Federal Regulations, or a consortium of these entities. A consortium of those entities may include a nonfinancial corporation, if the percentage of capitalization by all nonfinancial corporations in the consortium does not exceed 49 percent. “Financial institution” also includes a lending institution that has executed a participation agreement with the Small Business Administration under the guaranteed loan program pursuant to Part 120 (commencing with Section 120.1) of Chapter I of Title 13 of the Code of Federal Regulations and meets the requirements of Section 120.410 of Chapter I of Title 13 of the Code of Federal Regulations, and a small business investment company licensed pursuant to Part 107 (commencing with Section 107.20) of Chapter I of Title 13 of the Code of Federal Regulations. A financial institution described in this subdivision shall be domiciled or have its principal office in the State of California.



(e) “Loss reserve account” means an account in the State Treasury or any financial institution that is established and maintained by the authority for the benefit of a financial institution participating in the Capital Access Loan Program established pursuant to this article for the purposes of the following:

(1) Depositing all required fees paid by the participating financial institution and the qualified business.

(2) Depositing contributions made by the state and, if applicable, the federal government or other sources.

(3) Covering losses on enrolled qualified loans sustained by the participating financial institution by disbursing funds accumulated in the loss reserve account.

(f) “Participating financial institution” means a financial institution that has been approved by the authority to enroll qualified loans in the program and has agreed to all terms and conditions set forth in this article and as may be required by any applicable federal law providing matching funding.

(g) “Passive real estate ownership” means ownership of real estate for the purpose of deriving income from speculation, trade, or rental, but does not include any of the following:

(1) The ownership of that portion of real estate being used or intended to be used for the operation of the business of the owner of the real estate.

(2) The ownership of real estate for the purpose of construction or renovation, until the completion of the construction or renovation phase.

(h) “Program” means the Capital Access Loan Program created pursuant to this article.

(i) “Qualified business” means a small business concern that meets both of the following criteria, regardless of whether the small business concern has operations that affect the environment:

(1) It is a corporation, partnership, cooperative, or other entity, whether that entity is a nonprofit entity or an entity established for profit, that is authorized to conduct business in the state.

(2) It has its primary business location within the boundaries of the state.

(j) (1) “Qualified loan” means a loan or a portion of a loan made by a participating financial institution to a qualified business for any business activity that has its primary economic effect in California. A qualified loan may be made in the form of a line of credit, in which case the participating financial institution shall specify the amount of the line of credit to be covered under the program, which may be equal to the maximum commitment under the line of credit or an amount that is less than that maximum commitment. A qualified loan made under the program may be made with the interest rates, fees, and other terms and conditions agreed upon by the participating financial institution and the borrower.

(2) “Qualified loan” does not include any of the following:

(A) A loan for the construction or purchase of residential housing.

(B) A loan to finance passive real estate ownership.

(C) A loan for the refinancing of an existing loan when and to the extent that the outstanding balance is not increased.

(D) A loan, the proceeds of which will be used in any manner that could cause the interest on any bonds previously issued by the authority to become subject to federal income tax.

(k) “Severely affected community” means any area classified as an enterprise zone pursuant to the Enterprise Zone Act (Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code), any area, as designated by the executive director, contiguous to the boundaries of a military base designated for closure pursuant to Section 2687 of Title 10 of the United States Code, as amended, and any other comparable economically distressed geographic area so designated by the executive director from time to time.

(l) “Small Business Assistance Fund” means a fund created within the authority pursuant to Section 44548.

(m) “Small business concern” has the same meaning as in Section 632 of Title 15 of the United States Code, or as otherwise provided in regulations of the authority.

SEC. 13. Section 44559.2 of the Health and Safety Code is amended to read:

44559.2. (a) The authority may contract with any financial institution for the purpose of allowing the financial institution to participate in the Capital Access Loan Program established by this article.

(b) For purposes of this section, the authority may contract with participating financial institutions and shall utilize a standard form of contract that is reviewed and approved by the Department of General Services. The standard form of contract shall provide for all of the following:

(1) The creation of a loss reserve account by the authority for the benefit of the financial institution.

(2) The financial institution, qualified business, and the authority will deposit moneys to the credit of the institution’s loss reserve account when the financial institution makes a qualified loan to a qualified business.

(3) The liability of the state and the authority to the financial institution under the contract is limited to the amount of money credited to the loss reserve account of the institution.

(4) The financial institution shall provide the information that the authority may require, including financial information that is identifiable with, or identifiable from the financial records of a particular customer who is the recipient of a qualified loan. In addition to any other information that the authority may require, the

financial institution shall provide the complete Standard Industrial Classification (SIC) code for the qualified business and information that provides the precise geographic location of both the qualified business and the borrower, if different.

(5) The financial institution will file a report with the executive director setting out a full description of the board of directors, including size, race, ethnicity, and gender.

(6) The participating financial institution will require each borrower, prior to receiving a loan under the program, to sign a written representation to the participating financial institution that the borrower has no legal, beneficial, or equitable interest in the nonrefundable premium charges or any other funds credited to the loss reserve account established by the authority for the participating financial institution.

(7) Other terms that the authority may require for purposes of this article.

(c) A financial institution is not subject to laws restricting the disclosure of financial information when the financial institution provides information to the authority as required by paragraph (4) of subdivision (b).

(d) A credit union operating pursuant to a certificate issued under the California Credit Union Law (Division 5 (commencing with Section 14000) of the Financial Code) may participate in the Capital Access Loan Program established pursuant to this article only to the extent participation is in compliance with the California Credit Union Law. Nothing in this article shall be construed to limit the authority of the Commissioner of Financial Institutions to regulate credit unions subject to the commissioner's jurisdiction under the California Credit Union Law.

(e) Any individual, company, corporation, institution, utility, government agency, or other entity, including any consortium of these persons or entities, whether public or private, may participate in the Capital Access Loan Program established pursuant to this article by depositing funds in the California Capital Access Fund under those terms and conditions as may be deemed appropriate by the authority.

SEC. 14. Section 1.5 of this bill incorporates amendments to Section 44501 of the Health and Safety Code proposed by both this bill and AB 779. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2001, (2) each bill amends Section 44501 of the Health and Safety Code, and (3) this bill is enacted after AB 779, in which case Section 1 of this bill shall not become operative.

SEC. 15. Section 2.5 of this bill incorporates amendments to Section 44502 of the Health and Safety Code proposed by both this bill and AB 779. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2001, (2) each

bill amends Section 44502 of the Health and Safety Code, and (3) this bill is enacted after AB 779, in which case Section 2 of this bill shall not become operative.

SEC. 16. Section 5.5 of this bill incorporates amendments to Section 44520 of the Health and Safety Code proposed by both this bill and AB 779. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2001, (2) each bill amends Section 44520 of the Health and Safety Code, and (3) this bill is enacted after AB 779, in which case Section 5 of this bill shall not become operative.

SEC. 17. Section 8.5 of this bill incorporates amendments to Section 44526 of the Health and Safety Code proposed by both this bill and AB 779. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2001, (2) each bill amends Section 44526 of the Health and Safety Code, and (3) this bill is enacted after AB 779, in which case Section 8 of this bill shall not become operative.

SEC. 18. Section 12.5 of this bill incorporates amendments to Section 44559.1 of the Health and Safety Code proposed by both this bill and AB 2805. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2001, (2) each bill amends Section 44559.1 of the Health and Safety Code, and (3) this bill is enacted after AB 2805, in which case Section 12 of this bill shall not become operative.

